

reject notices with intervals of 7.55, 6.41, and 4.93 hours for three consecutive months. Texas Order ¶ 175, fn.472.

There is a disparity in flow-through rates between SWBT's retail operations and CLECs for orders submitted through LEX. See, AT&T's Willard Test. at 27-28; AT&T's Fettig. Test. at 41-42. But SWBT's overall flow-through figures, especially in light of the continued improvement in flow-through percentage over LEX and the excellent performance of LEX and EDI together, show that SWBT is offering nondiscriminatory access to CLECs. See, SWBT's Lawson Reply Aff. ¶¶ 59-63; SWBT's Dysart Reply Aff. ¶¶ 66; Texas Order ¶¶ 179-183.

SWBT has introduced enhancements designed to increase flow-through and reduce the frequency of CLEC errors that cause orders to fall out for manual processing by creating additional "up-front" edits at the request of CLECs. See, SWBT's Lawson Aff. ¶¶ 157-164, 362; SWBT's Lawson Reply Aff. ¶¶ 65-66. The Commission therefore finds little merit in AT&T's complaint that SWBT has not introduced enough "up-front" edits. See, AT&T's Willard Test. at 39-40.

Once an order is provisioned, SWBT returns a completion notification to CLECs. See, SWBT's Lawson Aff. ¶¶ 188-196. If, for some reason, the order will not or may not be provisioned on the due date given to a CLEC on their FOC, SWBT issues a jeopardy notification. See, id. ¶¶ 186-187.

AT&T alleges problems with the timeliness and accuracy of SWBT's return of jeopardies and completion notifications for certain orders. See, AT&T's Willard Test. at 45-51, 55-56. SWBT's performance has been improving for completion return over LEX. See, SWBT's Noland Reply Aff. ¶¶ 37-38; SWBT's Dysart Reply Aff. ¶¶ 58-59. With its excellent performance considering EDI and LEX together (see SWBT's Dysart Reply Aff.

¶¶ 61-62), AT&T's experience represents an anomaly affecting a limited number of orders.

WorldCom has complained that it has difficulty viewing its orders and blames this difficulty on SWBT's practice of reusing "C order" numbers. See, WorldCom Post Oct. Hearing Comments at 4. The Commission finds that in the three examples WorldCom presented where SWBT provided it with an incorrect "C order" number, each involved the relatively new situation in which an end user switches from one CLEC to another. The Commission finds that these instances do not rise to the level of discriminatory treatment. See, SWBT's Lawson Post Oct. Hearing Reply Aff. ¶¶ 9-12.

WorldCom's complaints about SWBT's return of jeopardies and service order completions (see, WorldCom's Post Oct. Hearing Comments at 2-5) are unsubstantiated. They therefore provide no basis from which this Commission can find that SWBT is providing discriminatory access to its OSS. See, SWBT's Joint Dysart, Noland, D. Smith Post Oct. Hearing Reply Aff. ¶¶ 49-52.

SWBT provides CLECs a choice of two electronic interfaces for maintenance and repair - Toolbar Trouble Administration (TBTA), the same graphic-user interface (GUI) used by SWBT's business customers and interexchange carriers (IXCs), and the industry standard Electronic Bonding Trouble Administration (EBTA) - enabling them to report troubles and request repair of resale services and UNEs, and to check on the status of these trouble reports. See, SWBT's Lawson Aff. ¶¶ 19, 256-272; M2A Attach. 3 - Maintenance - Resale; M2A Attach. 8 - Maintenance - UNE. CLECs also have the option of calling the LOC to report any troubles and request maintenance or repair. See, SWBT's Noland Aff. ¶¶ 77-78.

Although Sprint claims that it takes five days before a new customer's records can be accessed via SWBT's TBTA, see, Sprint's DeWolf

Aff. ¶ 16, the Commission finds Sprint's complaint to have been outdated when it was made and finds that CLECs can create trouble reports on or after the service order due date. See, SWBT's Lawson Reply Aff. ¶ 79; SWBT's Noland Aff. ¶¶ 85-86.

SWBT offers five electronic billing interfaces - Bill Plus, EDI, Bill Data Tape (BDT), Bill Information, and the Usage Extract Feed - allowing them to bill their customers, to process their customers' claims and adjustments, and to view SWBT's bill for services provided to the CLEC. See, SWBT's Lawson Aff. ¶¶ 273-286; See generally, SWBT's McLaughlin Aff.; See also, M2A Attach. 4 - Connectivity Billing - Resale; M2A Attach. 9 - Billing - Other.

AT&T is the only CLEC to raise issues of billing with regard to SWBT's provision of OSS. See, AT&T's Willard Test. at 58-59; AT&T's Fettig Test. at 48. The billing performance measures are adequate to evaluate SWBT's billing performance, and the record reflects that SWBT generally provides CLECs accurate and timely bills and usage information. See generally, SWBT's McLaughlin Aff.; SWBT's McLaughlin Reply Aff.; SWBT's Dysart Reply Aff. ¶¶ 69-70 & Attach. B (PMs 14-19); SWBT's Noland Reply Aff. ¶¶ 45, 48; Texas Order ¶¶ 210-212. The Commission concludes that SWBT has adequate procedures to update automatically its billing systems. The Commission further concludes that SWBT has manual processes to address orders that do not update properly.

AT&T has concerns (AT&T's Willard Test. at 59) about the potential for double billing, but compared with SWBT's evidence, the evidence of double billing is insufficient and unpersuasive. The Commission finds that SWBT has adequate processes and procedures in place to rectify in a timely manner any instances of double billing. See, SWBT's McLaughlin Aff. ¶¶ 16-18; SWBT's McLaughlin Reply Aff. ¶¶ 6-9.

**(3) Checklist Item 3: Nondiscriminatory Access to Poles, Ducts, Conduits, and Rights-of-Way**

SWBT has developed a Master Agreement governing access to poles, ducts, conduits, and rights-of-way, which is available to interested CLECs or may be used by a CLEC as a starting point for negotiations with SWBT. See, SWBT's Hearst Aff. ¶ 9; See also, M2A Attach. 13 - App. Poles, Conduits, and Rights-of-Way. SWBT has entered into approved interconnection agreements customizing the Master Agreement with AT&T and other carriers. See SWBT's Hearst Aff. ¶ 9.

SWBT has provided carriers in Missouri with more than 915,000 duct-feet of conduit and attachments to 413 poles; in Missouri, SWBT has not turned down a single request for access to the facilities covered by this checklist item. Id. ¶ 10; SWBT's Johnson Reply Aff. Attach. A. SWBT has established rates that are in accordance with FCC requirements. See, M2A Attach. 13 - App. Poles, Conduits, and Rights-of-Way; SWBT's Hearst Aff. ¶ 33.

**(4) Checklist Item 4: Local Loops**

SWBT currently offers unbundled access to 2-wire and 4-wire analog and digital loops, including loops that are conditioned to transmit the digital signals needed to provide services such as ISDN, ADSL, HDSL, DS1- and DS3-level signals. See, SWBT's Deere Aff. ¶¶ 83-85; SWBT's Sparks Aff. ¶¶ 80-82 & Attach. E (optional M2A Amendment for UNE Remand Order); New York Order, 15 FCC Rcd at 4095, ¶ 268.

SWBT's performance plan captures all aspects of the pre-ordering, ordering, and provisioning of unbundled loops. See generally, SWBT's Dysart Aff. SWBT has also committed to providing access to additional loop types and conditioning pursuant to the Special Request process, as well as to any additional loop types that either the FCC or this Commission

identifies for unbundling. See, SWBT's Deere Aff. ¶¶ 77-80; M2A Attach. 6 - UNE § 2.22.

SWBT's performance across available loop types in Missouri is at least equal in quality to that demonstrated in Texas when the FCC approved SWBT's section 271 application. See, id. Attach. A; See also, SWBT's Dysart Reply Aff. Attach. A; SWBT's Joint Dysart, Noland, D. Smith Post Oct. Reply Aff. Attach. A; SWBT's Dysart Post Nov. Hearing Aff. Attachs. A and C.

AT&T contends that SWBT's performance in provisioning 8.0 dB UNE loops has been substandard, referencing isolated instances in which SWBT failed to meet a particular metric in a given month. See, AT&T's Fettig Test. at 58-59; AT&T's Post Oct. Hearing Comments at 33. The comprehensive and objective performance data indicate that SWBT has provided high quality 8.0 dB UNE loops in a timely manner. SWBT has met or surpassed the three-day benchmark for 8.0 dB UNE loop average installation interval for each of the twelve months ending October 2000, and installed an average of 96.7 percent of 8.0 dB UNE loop orders (1-10 loops) within the three-day benchmark from November 1999 through October 2000. See, SWBT's Dysart Post Nov. Hearing Aff. Attach. C (PMs 55-01, 56-01).

SWBT has exceeded the parity standard for 8.0 dB loop missed due dates (field work) for each of the six months from May to October 2000. These were the only months in which there was a sufficient number of orders to provide a statistically significant portrait of SWBT's performance during the 12-month period leading up to October 2000. See, id. (PM 58-01).

SWBT has also exceeded the parity standard for trouble report rates (PM 65-01) for each of the eleven months preceding November 2000. See, id. Attach. C.

Gabriel Communications contends that SWBT repeatedly fails to meet installation dates for the unbundled DS1 loops and DS1 transport UNEs used by Gabriel to service its customers. See, Gabriel's and NextLink's Post Oct. Hearing Comments at 18. Gabriel goes so far as to allege that SWBT has missed approximately 60 percent of installation appointments for the period August 1 through October 3, 2000. See, id. SWBT's performance data refutes this assertion. SWBT has provided better than parity service to Gabriel across loop types. See, SWBT's D. Smith Post Nov. Hearing Aff. ¶ 3. From November 1999 through December 2000, Gabriel received parity or better service for 98 percent of 336 disaggregated performance measures. During the same time period, SWBT has been out of parity for PM 58-06 (missed due dates DS1 loops) for only a single month in each of the Kansas City and St. Louis market areas.

On February 22, 2001, Gabriel requested the Commission's permission to file the supplemental Affidavit of Edward J. Cadieux. Mr. Cadieux again expresses his concern with SWBT's performance under PM 58-06. Mr. Cadieux included the results of PM 58-06 for the months of October 2000 through January 2001 for both the Kansas City and the St. Louis markets.

Throughout this proceeding, the Commission has accepted the comments and testimony of the parties as part of the record in an effort to make an informed decision. Therefore, the Commission also accepts these late-filed comments into the record.

The Commission finds, however, that other than the updated percentages, Gabriel's comments add nothing further to the Commission's analysis. Gabriel does not address in its updated information, SWBT's performance in the aggregate for PM 58. In addition, Gabriel's updates show improvement in the most recent months (especially with regard to Kansas City). Thus, the Commission finds that SWBT has adequately

addressed the reasons for its failure to achieve parity in every instance under PM 58. See, SWBT's Dysart post Nov. Hearing Aff. ¶ 28; See also, SWBT's D. Smith Post Nov. Hearing Aff. ¶ 3.

As in Texas, SWBT offers CLECs in Missouri a choice between two different methods of coordinated conversions - the fully coordinated hot cut process (CHC) and the frame due time hot cut process (FDT) - allowing CLECs to select the process that best fits their resources and priorities. See generally, SWBT's Noland Aff.; SWBT's D. Smith Reply Aff. Reconciled performance data likewise demonstrate that SWBT completes CHC and FDT conversions without a service outage at a rate well above the 95-percent standard articulated by the FCC. See SWBT's D. Smith Reply Aff. ¶ 14. SWBT received trouble reports within seven days for a mere 1.14 percent of CHC conversions and 2.31 percent of FDT conversions between May and July 2000, again meeting or bettering the two-percent level used by the FCC in the New York Order. See id. ¶ 25.

AT&T claims that SWBT's hot cut performance is not adequately measured because Version 1.7 of SWBT's performance measurements did not go into effect in Missouri until October 2000. AT&T's Post Oct. Hearing Comments at 32. But the FCC approved SWBT's Texas 271 application on the strength of performance data generated by Version 1.6 of SWBT's measurements, the same evidence on which SWBT relies in this proceeding. See, SWBT's Reply Br. at 55-56; SWBT's Joint Dysart, Noland, D. Smith Post Oct. Hearing Reply Aff. ¶ 10. Furthermore, SWBT has now been operating under Version 1.7 for several months.

While Staff pointed out during the October 8-9 question and answer session that SWBT has fallen short of the benchmark for PM 114.1 (loop disconnect/cross-connect interval - CHC with loop) over the five months preceding that session, the business rules for this measure were changed during the most recent six-month review in Texas. See, Staff's Post Oct.

Hearing Comments at 30. Under Version 1.6 of SWBT's performance plan, the interim benchmark for PM 114.1 was absolute perfection, a standard that SWBT nearly attained. See, SWBT's Dysart Post Nov. Hearing Aff. ¶ 42. Between August and October 2000, for example, SWBT timely completed 99.24 percent of CLEC CHC conversion orders. During the six-month review in Texas, the 100-percent benchmark was discarded and replaced with a diagnostic measure. See, id. ¶ 43.

The Commission finds that SWBT provisions high-quality coordinated conversions in a timely manner and with a minimum of service disruption in satisfaction of the applicable FCC hot cut standards for both CHC and FDT conversions. See, New York Order, 15 FCC Rcd at 4104-05, ¶ 291. Therefore, the Commission finds that SWBT provides nondiscriminatory access to unbundled loops for the provisioning of advanced services. See generally, SWBT's Chapman Aff.; SWBT's Chapman Reply Aff.; SWBT's Chapman Post Oct. Hearing Aff.; SWBT's Chapman Post Oct. Hearing Reply Aff.

SWBT utilizes the same processes and procedures for the pre-ordering, ordering, and provisioning of xDSL-capable loops and related services in Missouri as it does in Texas. See, SWBT's Chapman Aff.; SWBT's Chapman Reply Aff.; See also, SWBT's Lawson Aff. Performance data demonstrate that SWBT: (i) provides xDSL-capable loops to competitors in substantially the same interval as to its retail customers; (ii) provides xDSL-capable loops to competitors that are equal in quality to those that service SWBT customers; (iii) performs quality maintenance and repair functions for competitors' xDSL-capable loops in substantially the same time frame as for its Advanced Services Affiliate, SBC Advanced Solutions Inc. (ASI); and (iv) provides competitors with access to the exact same loop makeup information available to ASI, and in the same time frame. See generally, SWBT's Dysart Aff.; SWBT's Dysart Reply Aff.; SWBT's Joint

Dysart, Noland Post Oct. Hearing Reply Aff.; SWBT's Dysart Post Nov. Hearing Aff.

While SWBT has been out of parity for missed installation appointments, the disparity is predominantly explained by lack of facilities: 33 of 69 missed due dates in July 2000, 25 of 69 missed due dates in August 2000, and 23 of 45 missed due dates in September 2000 were due to a lack of available facilities. See, SWBT's Joint Dysart, Noland, D. Smith Post Oct. Hearing Reply Aff. ¶ 34; SWBT's Dysart Post Nov. Hearing Aff. ¶ 28. When lack of facilities is removed from the calculus, SWBT's performance has been steadily improving: from 11 percent (36/325 in July), to 10.5 percent (44/420) in August 2000, to 4.6 percent (22/471) in September 2000. See, SWBT's Joint Dysart, Noland, D. Smith Post Oct. Hearing Reply Aff. ¶ 34. SWBT's September 2000 performance is better than the new 5-percent benchmark established by Version 1.7 for non-line shared loops. See, id.

SWBT additionally has established a fully operational separate advanced services affiliate. See generally, SWBT's Brown Aff. ASI became SBC's exclusive provider of new interstate advanced services in Missouri on January 12, 2000. See, id. ¶ 7. ASI began providing new intrastate advanced services on March 8, and became the provider of record for SWBT embedded customers on those same days. Id.

ASI uses the same ordering and provisioning systems and procedures that CLECs use when ASI requires unbundled loops. Id. ¶ 12. Since line sharing became operational throughout SWBT's region on May 30, 2000, ASI orders the high-frequency portion of the loop using the same interfaces used by other CLECs.

In September 2000, ASI additionally began to offer xDSL service to customers in the "yellow zone" - i.e., at loop lengths between 12,000 and 17,499 feet. See, T.2972 (ASI's Brown).

ASI is operating in accordance with structural separation and nondiscrimination rules that were approved by the FCC in both the SBC/Ameritech Merger Order and the New York Order. See generally SWBT's Brown Aff.; SWBT's Brown Reply Aff. Having reached the "steady state" operationally, ASI's independent operations provide further guarantees that there is a level playing field in the market for advanced services in Missouri.

Primary Networks questions SWBT's DSL provisioning performance record. SWBT provided installation parity for non-conditioned lines during each of the four months from July 2000 through October 2000. See, SWBT's Joint Dysart, Noland, D. Smith Post Oct. Hearing Reply Aff. ¶¶ 32-33; SWBT's Dysart Post Nov. Hearing Aff. Attach. A (PM 55.1-01).

The trouble report rate (PM 65-08) for CLECs has been well below that for ASI over the five-month period from June through October 2000. See SWBT's Joint Dysart, Noland, D. Smith Post Oct. Hearing Reply Aff. ¶ 37; Dysart Post Nov. Hearing Aff. Attach. A.

For PM 58-09 (Percent Installation Trouble Reports Within 30 Days), SWBT was in parity for each of the months from June through October 2000. See, SWBT's Joint Dysart, Noland, D. Smith Post Oct. Hearing Reply Aff. ¶ 35; SWBT's Dysart Post Nov. Hearing Aff. Attach. A.

Comprehensive performance data refute CLEC arguments that SWBT has failed to provide nondiscriminatory access to xDSL pre-ordering and ordering functions. While Primary Networks criticizes SWBT's xDSL FOC return performance (PM 5.1), SWBT's performance data demonstrate that SWBT actually met or exceeded the relevant benchmark for all but 2 of 24 disaggregated measures between July and October 2000. See SWBT's Joint Dysart, Noland, D. Smith Post Oct. Hearing Reply Aff. ¶ 30; SWBT's Dysart Post Nov. Hearing Aff. Attach. A.

SWBT provides timely access to loop makeup information. SWBT was in parity for each of the three months from August to October 2000 for the return of loop makeup information (Version 1.7 PM 1.1-01). Also, the average response time over the period from November 1999 to October 2000 was almost identical for CLECs and SWBT/ASI (2.98 days versus 2.73 days). See Dysart Post Nov. Hearing Aff. Attach. C (DOJ-PM 57). The Commission finds that SWBT provides CLECs nondiscriminatory access to all loop makeup information in its possession. See generally, SWBT's Chapman Aff.

In an effort to help CLECs work around any problems they may face due to inaccuracies in SWBT's DSL databases, SWBT has voluntarily offered to extend its "yellow zone" line sharing trial to stand-alone xDSL-loops. See T.2964-2972 (SWBT's Chapman). This voluntary offering will reduce the provisioning interval for loops requiring conditioning by 8-10 days. See id. T.2965-2966.

There is no merit to IP Communications' repeated assertion that SWBT must provide access to perfect loop makeup information. See, IP Communications' Comments at 15-18; T.2968-2971 (IP's Siegel); see also, Sprint's Post Oct. Hearing Comments at 3-4.

SWBT made line sharing available in Missouri before the FCC's June 6, 2000 deadline. See, SWBT's Chapman Aff. ¶ 53. While CLECs have yet to begin to utilize the line sharing option in Missouri, SWBT has already demonstrated its ongoing ability to provision commercial volumes of line-shared loops through the services provided to ASI. Any CLEC can provide integrated voice and data service over a single loop, as can a CLEC and a designated data provider. See generally, SWBT's Chapman Post Oct. Hearing Reply Aff.; T.3091-3092, 3096 (SWBT's Chapman). SWBT explained how a CLEC could do so, and the FCC already has found that "SWBT allows competing carriers to provide both voice and data services over the UNE-P." Texas Order ¶ 325.

In addition, the Commission has established Case No. TO-2001-440 to examine the prices, terms, and conditions of line sharing in Missouri. In the meantime, SWBT has made line sharing available in the M2A at interim rates identical to line sharing in the Texas agreement. These rates are subject to a limited true-up with the permanent rates set in Case No. TO-2001-440. See, M2A, Optional Line Sharing Amendment - Appendix to Attachment 25: xDSL. Therefore, the Commission finds that SWBT has fully implemented the line-sharing performance measurements effective with the reporting of October 2000 data. See, SWBT's Dysart Post Nov. Hearing Aff. Attachs. B & D.

AT&T contends that SWBT must provide additional services and support to enable CLECs to engage in line splitting. See, AT&T's Post Oct. Hearing Comments at 36-40; T.3086-3090 (AT&T's Cowlshaw). "Line splitting" is the shared use of an unbundled loop for the provision of voice and data services by a voice CLEC and a data CLEC. The voice CLEC and data CLEC may or may not be the same entity. This is different from "line sharing," in which an ILEC provides voice service and a CLEC provides data service. CLECs have the ability to engage in line splitting today under SWBT's current offerings. See generally, SWBT's Chapman Post Oct. Hearing Reply Aff.; T.3091-3092, 3096 (SWBT's Chapman).

A CLEC may purchase an xDSL-capable loop UNE from SWBT and then provide both voice and data services over the loop, and it may purchase UNE switching to provide voice services. See SWBT's Chapman Post Oct. Hearing Reply Aff. ¶ 4. A single CLEC may choose to use the loop to provision both data and voice services, or one CLEC could provide voice service and another CLEC could provide data service. See id.

SWBT has offered in the M2A the same prices, terms, and conditions for line splitting in Missouri as in the Texas arbitration, once final, on an interim, subject to a limited true-up with permanent prices, terms, and

conditions to be set by the Commission in Case No. TO-2001-440. See Optional Line Splitting Amendment - Appendix to Attachment 25: xDSL. The Commission finds until Case No. TO-2001-440 is decided, nothing further is required by SWBT than its current offerings.

### **(5) Checklist Item 5: Unbundled Local Transport**

SWBT supplies dedicated transport between a SWBT tandem or end office and a CLEC tandem or end office at standard transmission speeds of up to OC-48. SWBT's Deere Aff. ¶¶ 101-102. CLECs may obtain dedicated transport with levels of capacity higher than OC-48 through an optional amendment to the M2A. SWBT's Sparks Aff. ¶¶ 80-81 & Attach. E. SWBT permits CLECs to use dark fiber as an unbundled element to provide their own dedicated transport. SWBT's Deere Aff. ¶ 115; SWBT's Sparks Aff. ¶¶ 99-100; M2A Attach. 6 - UNE § 8.2.2. SWBT also makes available cross-connections for use with unbundled dedicated transport. SWBT's Deere Aff. ¶ 115.

SWBT offers shared (or common) transport between its central office switches, between its tandem switches, and between its tandem switches and central office switches, in accordance with the "shared transport" requirements of the FCC's UNE Remand Order. See SWBT's Sparks Aff. ¶ 101; SWBT's Deere Aff. ¶ 110. SWBT will combine unbundled 2- or 4-wire analog or digital loops with unbundled voice-grade DS0, DS1, or DS3 dedicated transport to provide new EEL arrangements. SWBT's Sparks Aff. ¶¶ 92-93; M2A Attach. 6 - UNE § 14.7.

Staff has noted that not all unbundled local transport prices contained in the M2A have undergone the scrutiny of this Commission to determine if they are compliant with TELRIC. In response to this, the Commission has included in Case No. TO-2001-438, those prices, terms, and conditions for local transport that were not previously reviewed. The

prices offered in the M2A are similar to the prices approved in Texas and will be subject to a limited true-up with the permanent prices set in Case No. TO-2001-438.

**(6) Checklist Item 6: Unbundled Local Switching**

SWBT provides CLECs unbundled switching capability with the same features and functionality available to SWBT's own retail operations. SWBT provides requesting carriers access to line side and trunk side switching facilities, plus the features, functions, and capabilities of the switch. See SWBT's Deere Aff. ¶ 131; SWBT's Sparks Aff. ¶ 102. See generally Texas Order ¶ 339.

SWBT offers CLECs all the vertical features the switch is capable of providing. See SWBT's Deere Aff. ¶¶ 133, 140. SWBT also offers any technically feasible routing features, such as the ability to route calls to a CLEC's own directory assistance and operator services facilities over CLEC-designated trunks. Id. ¶¶ 137-139.

SWBT provides two methods by which CLECs using unbundled local switching may have calls "custom routed" according to their own specifications. Id. ¶¶ 137-138 (discussing the Advanced Intelligent Network (AIN) and line class codes). SWBT also provides usage information for billing exchange access and reciprocal compensation. SWBT's Sparks Aff. ¶¶ 103-106, 117-118. Therefore, the Commission finds that SWBT provides nondiscriminatory access to unbundled local switching in compliance with section 271(c)(2)(B)(vi).

**(7) Checklist Item 7: Nondiscriminatory Access to 911, E911, Directory Assistance, and Operator Call Completion Services**

**911 and E911 Access**

SWBT provides 911 and E911 access on a nondiscriminatory basis. See generally SWBT's Deere Aff.; and SWBT's Rogers Aff. There were no allegations that SWBT fails to satisfy this aspect of the checklist item.

**Directory Assistance/Operator Services**

Section 271(c)(2)(B)(vii)(II) and section 271(c)(2)(B)(vii)(III) require SWBT to provide nondiscriminatory access to "directory assistance services to allow the other carrier's customers to obtain telephone numbers" and "operator call completion services."

At the November question and answer session, no CLEC presented any evidence questioning SWBT's ability to satisfy this checklist item. The Commission finds that SWBT provides nondiscriminatory access to directory assistance and operator services in compliance with the requirements of section 271(c)(2)(B)(vii)(II) and (III). See generally, SWBT's Deere Aff.; and SWBT's Rogers Aff.

**(8) Checklist Item 8: White Pages Directory Listings**

SWBT provides White Pages directories to CLECs' end users during the annual distribution of new books and provides additional directories for CLECs to use throughout the year. See, SWBT's Rogers Reply Aff. ¶ 30. The M2A includes provisions for a facilities-based CLEC to forecast - before directories are printed - the total number of SWBT White Pages directories the CLEC will need throughout the year, just as SWBT must project its own needs. Id. If a CLEC wants White Pages provisions that are different from those available under the M2A, the CLEC is free to negotiate those terms and conditions in an interconnection agreement under

section 252. No CLEC has alleged that SWBT fails to satisfy this aspect of the checklist item. Therefore, the Commission finds that SWBT provides adequate White Pages directory listings in compliance with section 271(c)(2)(B)(viii).

**(9) Checklist Item 9: Nondiscriminatory Access to Telephone Numbers**

Based on SWBT's testimony, the Commission finds that SWBT administered the assignment of numbers in accordance with industry-established guidelines published by the Industry Numbering Committee throughout its tenure as Code Administrator. Since that time SWBT has continued to support and to adhere to the number administration rules, regulations, and guidelines established by the FCC as well as the industry numbering forums. See SWBT's Adair Aff. ¶¶ 3-18.

WorldCom's assertion that the current practice of assigning NXXs to each exchange is a "gross misuse" of the numbering resource fails to recognize the basic requirements of the North American Numbering Plan (NANP) architecture. Unique NXXs (or unique NXX-X in a K-Block pooling environment) are necessary for all providers to ensure proper routing and billing of calls placed to numbers to the dialed NPA-NXX. The requirement in the M2A mirrors this practice.

**(10) Checklist Item 10: Nondiscriminatory Access to Databases and Associated Signaling Necessary for Call Routing and Completion**

Section 271(c)(2)(B)(x) requires SWBT to provide "[n]ondiscriminatory access to databases and associated signaling necessary for call routing and completion."

Calling name database (CNAM) query responses deliver calling name information in conjunction with the calling parties' telephone numbers as part of Caller ID service. The information contained in the CNAM is available to CLEC end office switches on a query-by-query basis, together

with the associated signaling. WorldCom has proposed that SWBT be required to make the entire contents of its CNAM available to CLECs in bulk, rather than on a per-query basis. See WorldCom's Comments at 28. However, the information is being made available to CLECs in the same manner as it is available to SWBT's end office switches. See SWBT's Rogers Reply Aff. ¶¶ 20-21.

WorldCom also claims that SWBT's local service request (LSR) process for updating CLECs' line information database (LIDB) is inadequate. WorldCom's Comments at 25-28; WorldCom's Post Oct. Hearing Comments at 4. But the processes currently in place for updating LIDB records were implemented at the express request of WorldCom and other CLECs as a part of the Texas 271 collaborative process. SWBT implemented a mechanized process to allow CLECs to update the LIDB database via the LSR on initial UNE switch port conversions, which was expected to be available December 31, 2000. See SWBT's Rogers Reply Aff. ¶¶ 23-24; SWBT's Post Oct. Hearing Reply Br. at 54-57; SWBT's Rogers Post Oct. Hearing Reply Aff. ¶¶ 6-11.

AT&T claims that SWBT does not offer nondiscriminatory access to its LIDB. AT&T's Post Oct. Hearing Comments at 40. Specifically, AT&T is concerned that SWBT's LSR does not provide the option to transition LIDB records "as is" on a UNE conversion or the ability to specify individual fields of data that a customer may want to modify. Id. at 41. SWBT is implementing a mechanized process for updating its LIDB via LSR that adequately address AT&T's concerns. SWBT's Rogers Reply Aff. ¶¶ 23-24; SWBT's Post Oct. Hearing Reply Br. at 54-57; SWBT's Rogers Post Oct. Hearing Reply Aff. ¶¶ 6-11. The new process is designed to create a more complete and accurate customer record via the LSR, which will benefit CLECs (like AT&T) and their customers by getting rid of any factors that cause error and delay. SWBT's Post Oct. Hearing Reply Br. at 56.

WorldCom alleges that there are mismatches between information on SWBT's LIDB database and WorldCom's customers' accounts that impact WorldCom customers' ability to make third-party or collect calls. See, WorldCom's Post Oct. Hearing Comments at 3. However, SWBT presented convincing evidence that the carrier accessing WorldCom subscriber LIDB information makes the decision whether to complete a third-party billed or collect call. See, SWBT's Post Oct. Hearing Br. at 53-54; SWBT's Rogers Post Oct. Hearing Reply Aff. ¶¶ 4-5. There is no call blocking feature or capability in LIDB. See, SWBT's Rogers Post Oct. Hearing Reply Aff. ¶¶ 4-5.

As noted by WorldCom, the information contained in the LIDB database for the subscribers in question was correct. See, WorldCom's Post Oct. Hearing Comments at 3. Not all carriers, however, choose to access LIDB information prior to processing or rejecting a call. SWBT's Rogers Post Oct. Hearing Reply Aff. ¶ 4. Furthermore, a carrier that does access SWBT's LIDB can make any decision regarding call processing or call rejection, based on that carrier's own business plans and requirements. SWBT's Post Oct. Hearing Reply Comments at 54. The Commission determines that this is a problem between WorldCom's end user and a third-party carrier other than SWBT, and therefore, it does not affect SWBT's compliance with this checklist item.

At the November 8-9 question and answer session, no CLEC presented evidence questioning SWBT's ability to satisfy this checklist item.

The Commission finds that the concerns raised have been adequately addressed by SWBT. The Commission further finds that SWBT has shown it provides "nondiscriminatory access to databases and associated signaling necessary for call routing and completion."

### **(11) Checklist Item 11: Number Portability**

SWBT has equipped 178 switches, representing 91 percent of its access lines in Missouri, with local number portability (LNP) capability. See Orozco Aff. ¶ 6. CLECs in Missouri served more than 124,000 ported access lines through April 2000. Id. SWBT has also provided detailed testimony of its procedures for ordering and provisioning LNP with and without unbundled loops. Id. ¶¶ 21-26; SWBT's Lawson Aff. ¶¶ 106, 111, 146-155.

AT&T has criticized SWBT's failure to meet some performance benchmarks related to LNP. See AT&T's Fettig Test. at 62. However, in one case - premature disconnection of LNP-only orders - SWBT apparently misreported data because of programming errors. SWBT's Dysart Reply Aff. ¶ 87. SWBT has shown a consistent pattern of satisfying the performance benchmark. See id. ¶¶ 86-93.

Prior to implementing LNP, SWBT made interim number portability (INP) available. SWBT still provides INP in those few instances where LNP is not available. See SWBT's Deere Aff. ¶¶ 209-215.

SWBT provides CLECs a choice of two forms of INP: Remote Call Forwarding or Direct Inward Dialing. SWBT also makes available the Route Index Portability Hub method and the Directory Number Route Index method to any CLEC that requests them, subject to the requesting CLEC's payment of reasonable costs. Id.; M2A Attach. 14 - Interim Number Portability §§ 5.1-5.4, 7.1. No CLEC has criticized SWBT's INP performance.

### **(12) Checklist Item 12: Local Dialing Parity**

Section 271(c)(2)(B)(xii) requires SWBT to provide nondiscriminatory access to "services or information" necessary to allow CLECs to implement local dialing parity in accordance with section 251(b)(3). SWBT

provides such access to CLECs through its Commission-approved interconnection agreements. See SWBT's Deere Aff. ¶¶ 216-219.

Gabriel contends that SWBT's Metropolitan Calling Area (MCA) plan violates the dialing parity requirement by requiring SWBT's customers to dial a toll number when calling CLEC customers within the geographic area of the MCA. Gabriel's Cadieux Aff. ¶¶ 17-37; see also, Primary Network's Post Oct. Hearing Comments at 23 (claiming that SWBT's MCA plan is an issue for public-interest analysis); McLeodUSA's Post Oct. Hearing Comments at 15-18 (same).

In the intervening period after Gabriel made its complaint, the Commission issued an order which stated that CLECs were proper participants in MCA service on the same basis as ILECs. Report and Order, Investigation Surrounding the Provisioning Metropolitan Calling Area Service, Case No. TO-99-483 (MO PSC Sept. 7, 2000). Because Gabriel's contention was addressed by that order, those issues are now moot.

At the November 8-9 question and answer session, no other evidence was presented questioning SWBT's ability to provide CLECs the access necessary to satisfy this checklist item.

### **(13) Checklist Item 13: Reciprocal Compensation**

The interconnection agreements between SWBT and various CLECs contain negotiated rates for reciprocal compensation. See, SWBT's Sparks Aff. ¶ 111.

In addition, the Commission has established rates for transport and termination in its Final Arbitration Order, Case Nos. TO-97-40, et al. (MO PSC July 31, 1997).

Under the M2A, SWBT offers three options with respect to reciprocal compensation. First, a CLEC may select a bill and keep arrangement with respect to local traffic and a meet-point-billing

arrangement for Internet-bound traffic. Second, a CLEC may negotiate and, if necessary, arbitrate a compensation arrangement; in that event, bill and keep will serve as an interim arrangement, subject to true-up. Third, the CLEC may choose to be paid reciprocal compensation on local traffic at the rates set by the Commission. See, T.2332-38 (SWBT's Sparks).

Primary and McLeodUSA each argued that SWBT is failing to make timely reciprocal compensation payments in Missouri for internet-bound traffic and MCA calls. See, Primary Network's Post Oct. Hearing Comments at 21; McLeodUSA's Post Oct. Hearing Comments at 15-16. However, the Commission has addressed the MCA calls in Case No. TO-99-483 and Primary's complaint in Case No. TC-2000-225, et al., has been dismissed.

Therefore, the Commission finds that there has been no evidence presented that SWBT is currently failing to make timely reciprocal compensation payments.

#### **(14) Checklist Item 14: Resale**

The Commission has established a wholesale discount rate of 19.2 percent applicable to all services except operator services and 13.9 percent for operator services.<sup>28</sup> See, SWBT's Ries Aff. ¶ 39. These discounts have been incorporated into the M2A.<sup>29</sup> See, SWBT's Br. at 107-09; see also 1997 Final Arbitration Order at 3.

The telecommunications services that SWBT provides CLECs for resale are identical to the services that SWBT furnishes its own retail customers. See, SWBT's Sparks Aff. ¶ 121. CLECs are able to sell these services to the same customer groups and in the same manner as SWBT. Id. SWBT offers wholesale discounts on promotional offerings lasting more than 90 days. Id. ¶ 125; M2A Attach. 1 - Resale, § 4.2.

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<sup>28</sup> 1997 Final Arbitration Order at 3.

<sup>29</sup> M2A, Attach. 1, Services/Pricing App. § 14.1 (Resale).

For retail services that SWBT offers to a limited group of customers (such as grandfathered services), SWBT allows resale to the same group of customers to which it sells the services, in accordance with 47 C.F.R. § 51.615. See, SWBT's Sparks Aff. ¶ 128. SWBT's customer-specific proposals are also available for resale to similarly situated customers without triggering termination liability charges or transfer fees to the end user. Id. ¶ 128; M2A Attach. 1 - Resale, App. Services/Pricing § 16.0. In addition, SWBT's OSS allow resellers to access pre-ordering, ordering, provisioning, maintenance and repair, and billing functions for resold services in a nondiscriminatory manner. See, SWBT's Dysart Aff. ¶¶ 149-163, Tables 3, 4.

## **B. CONCLUSIONS OF LAW**

### **General Matters**

The 14-point competitive checklist sets out the steps that a BOC must take to open the local market to its competitors. See 47 U.S.C. § 271(c)(2)(B)(i)-(xiv). SWBT has satisfied the requirements of the competitive checklist by providing or offering access to and interconnection with its network on terms and conditions that satisfy each of the checklist items.

The standard for reviewing SWBT's compliance with the checklist is nondiscriminatory access to facilities and services. The standard is not performance free from error or mistake. Like the FCC, the Commission concludes "that isolated problems are [not] sufficient to demonstrate that [a BOC] fails to meet the statutory requirements."<sup>30</sup>

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<sup>30</sup> Memorandum Opinion and Order, Application of BellSouth Corp., BellSouth Telecomms., Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Louisiana, 13 FCC Rcd 20599, 20651, ¶ 78 (1998) ("Second Louisiana Order").

Consistent with the position of the FCC, the Commission does not require that SWBT actually provision each specific checklist item, only that it demonstrate that each checklist item is legally and practically available. Michigan Order, 12 FCC Rcd at 20605, ¶ 115.

The Commission finds that SWBT is offering all 14 checklist items to CLECs in Missouri for their commercial use, even though CLECs are not yet ordering all these items at commercial volumes.

SWBT's general processes for collecting and reporting data were validated by Telcordia, which confirmed that SWBT "collects and reports data in a manner consistent with the [Texas Commission]-approved business rules," and that SWBT had agreed to implement each of Telcordia's recommendations. Texas Order ¶ 429. Therefore, the Commission concludes that a second, redundant review of those procedures is unnecessary.

The Commission has taken very seriously, however, all claims that SWBT's data are unreliable, or that they reveal sub-standard performance. Accordingly, following the FCC's lead, "[w]here particular SWBT data are disputed by commenters," those challenges are discussed in our checklist analysis. Texas Order ¶ 57.

### **(1) Checklist Item 1: Interconnection**

The Commission has found that SWBT interconnects with CLECs using the same facilities, interfaces, technical criteria and service standards as it uses for its own operations. The FCC found that SWBT interconnects with CLECs using the same facilities, interfaces, technical criteria, and service standards as SWBT uses for its own operations in the state of Texas. The Commission finds that SWBT uses virtually identical facilities, interfaces, technical criteria and service standards in Missouri as it does in Texas. See SWBT's Deere Aff. ¶¶ 13-41 (methods of interconnection),

32-41 (trunking arrangements), 42-60 (trunk forecasting and servicing); SWBT's Sparks Aff. ¶¶ 32-72 (collocation); see also Texas Order ¶¶ 65, 73.

The Commission concludes that by offering the prices, terms, and conditions in the M2A on an interim basis subject to a limited true-up, pending establishment of permanent collocation tariffs in the Commission's Case No. TT-2001-298, SWBT has provided "[i]nterconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1)." 47 U.S.C. § 271(c)(2)(B)(i).

### **Interconnection Trunking**

In the Texas Order, the FCC held that SWBT's provision of "parity or better performance to competitors" in Texas under PM 73 satisfied section 271. Texas Order ¶ 70. "Nothing in the statute requires the ILECs to provide superior quality interconnection to its competitors." Iowa Utils. Bd. v. FCC, 219 F.3d 744, 758 (8th Cir. 2000) (reaffirming prior invalidation of FCC rules requiring interconnection superior to that which the ILEC provides to itself), petitions for cert. filed, Nos. 00-511, 00-555, 00-587, 00-590, and 00-602. Thus, the Commission concludes that for purposes of compliance with section 271, where there is a retail analog (as here), SWBT's obligation is to provide parity performance and not performance satisfying a benchmark set higher than the service it provides to itself.<sup>31</sup>

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<sup>31</sup> See AT&T Corp. v. FCC, 220 F.3d 607, 625 (D.C. Cir. 2000) (explaining that, where there is a retail analog, the FCC in reviewing a section 271 application "asks whether the BOC has 'provide[d] access that is equal to . . . the level of access that the BOC provides itself, its customers, or its affiliates, in terms of quality, accuracy, and timeliness'" (citation omitted; alteration in original)); see also 47 C.F.R. § 51.305(a)(3).

The Commission also finds that to the extent SWBT fails in the future to meet the new benchmark standard in Version 1.7, SWBT will pay the highest levels of liquidated damages to CLECs and assessments to the state treasury, which provides ample incentive for SWBT to meet the benchmark. See SWBT's Dysart Reply Aff. ¶ 43; SWBT's Dysart Post Nov. Hearing Aff. ¶ 36.<sup>32</sup>

AT&T presents no evidence on whether SWBT's trunk blockage measure (PM 70) actually reflects CLEC experience, and the FCC is clear that such unsupported allegations in this context should be flatly rejected:

In the future, if competitive LECs allege that blocking is occurring on outgoing calls from the competitive LEC network to the BOC network, and that such blockage is not being captured by the state-approved performance measure, then competitive LECs should provide evidence, such as reliable performance data, along with a showing of why the BOC is responsible for the blockage.

Texas Order ¶ 69; see also AT&T Corp., 220 F.3d at 628 (rejecting AT&T's suggestion that "attributing [hot cut] outages of unknown origin to Bell Atlantic follow[s] automatically from the proposition that the company has the burden of proof").

AT&T's claim that SWBT has reported excessive blocking to TCG in the St. Louis market under PM 70 in June and July 2000, which was isolated and has now been corrected, is insufficient to deny approval of this Application. AT&T's Fettig Test. (Perf. Meas.) at 30. SWBT's performance for the purpose of section 271 compliance is to be measured by its aggregate performance to all CLECs statewide, not, as AT&T suggests, CLEC by CLEC. SWBT met or exceeded the benchmark for PM 70 for all Missouri

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<sup>32</sup> Nonetheless, in response to the concerns raised at the November 8-9 hearings and by Staff's November 2, 2000 comments, SWBT has begun an analysis of potential measures that it can implement to provision interconnection trunks for both CLECs and itself in a more timely manner, which it claims will lead to SWBT improving its reported performance under the very rigorous 95 percent benchmark standard contained in Version 1.7 of the PM Business Rules. See SWBT's Dysart Post Nov. Hearing Aff. ¶ 35; SWBT's Smith Post Nov. Hearing Aff. ¶¶ 7-10.

CLECs in the 12-month period from November 1999 through October 2000. See SWBT's Dysart Post Nov. Hearing Aff. ¶ 34. As the FCC has explained, one CLEC's experience regarding trunk blockage "do[es] not disprove the submitted data showing that SWBT met the benchmark on the trunk blocking performance measure (PM 70)." Texas Order ¶ 69 n.142; cf. AT&T Corp., 220 F.3d at 624 (upholding FCC's determination that a BOC's compliance with checklist item (iv) (unbundled local loops) should be determined in the aggregate rather than on a loop-by-loop basis).<sup>33</sup>

The Commission finds that the language in the M2A providing the option for a CLEC to interconnect at a single, technically feasible point within the LATA, tailored to meet the CLEC's need, fully complies with the FCC's requirement that "a competitive LEC ha[ve] the option to interconnect at only one technically feasible point in each LATA." Texas Order ¶ 78. See Attachment 11: Network Interconnection Architecture.

AT&T argues that requiring a CLEC to pay the cost of interconnection when the traffic must be transported from one local exchange to another local exchange within the same LATA will deny interconnection at a single point within a LATA. SWBT replies that due to the large size of the few LATAs in Missouri, the CLEC's point of interconnection could well be hundreds of miles from the local exchange where the calling and called parties are located. SWBT also argues that the Commission should find that AT&T's proposal is inconsistent with federal law because it would improperly shift the cost of transport and termination to SWBT where the CLEC's chosen single point of interconnection

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<sup>33</sup> The Commission also finds little significance in the possible discrepancy under PM 74 (Average Delay Days for Missed Due Dates - Interconnection Trunks), where SWBT may be erroneously charged delay days because it is initially not ready to meet a due date and the CLEC subsequently is not ready to accept the order when SWBT becomes ready to fill it. These additional CLEC-caused delay days should not be charged to SWBT, which states that it is attempting to modify its Work Force Administration system correctly to capture this information in the future under PM 74. SWBT's Dysart Post Nov. Hearing Aff. ¶ 36.